

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FULL CIRCLE UNITED, LLC,

Plaintiff,

VS.

BAY TEK ENTERTAINMENT, INC.

Defendant.

BAY TEK ENTERTAINMENT, INC.,

Counterclaim Plaintiff,

VS.

FULL CIRCLE UNITED, LLC,

Counterclaim Defendant,

and

ERIC PAVONY,

Additional Counterclaim
Defendant.

CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEO-RECORDED ORAL DEPOSITION OF ERIC WIKMAN

INDIVIDUALLY AND AS CORPORATE REPRESENTATIVE OF

FULL CIRCLE UNITED, LLC

VOLUME 2

Thursday, May 26, 2022

REPORTED BY:
Linda Russell, CSR
JOB NO: 211443

1 WIKMAN

2 And I -- I can re-export that data
3 now, too, I think. It's not -- so, like if you
4 were concerned with wanting to verify something,
5 like, I can still export stuff out of Stripe.
6 But those are the locations where I stored it.

7 BY MR. WILLIAMS:

8 Q. Was anything from this external hard
9 drive that you're referencing collected and
10 produced in this lawsuit?

11 A. No, there was -- CSV files, the --
12 no, huh-uh, I didn't -- I didn't -- I don't
13 believe I gave anybody those CSV files.

14 MR. WILLIAMS: Okay. Jim, can we
15 please mark A2?

16 MR. BERKLEY: Yeah, let me pull that
17 up.

18 (Exhibit 15 marked for identification.)

19 MS. NGUYEN: For the record, this is
20 Wikman Exhibit Number 15, which is Full Circle
21 United, LLC's Answers to Bay Tek Entertainment,
22 Inc.'s First Set of Interrogatories to Full
23 Circle United.

24 BY MR. WILLIAMS:

25 Q. Okay. Mr. Wikman, did you

WIKMAN

1
2 participate in the preparation of these
3 interrogatory responses?

4 A. I'm not sure. I don't -- I don't --
5 I don't recall. I'm not sure.

6 Q. Do you recall whether you've
7 participated personally in the preparation of any
8 interrogatory responses in this case?

9 A. I'm sure I did, but I don't -- I
10 don't have a specific memory of doing that. I
11 shouldn't speculate, but -- but I don't have a --
12 I don't have a specific memory of doing that.

13 Q. Okay. So -- so these are from
14 October 26, 2020.

15 Interrogatory Number 7 --

16 MR. WILLIAMS: And, Jim, if you can
17 scroll down to that.

18 BY MR. WILLIAMS:

19 Q. -- states, "Identify all revenue and
20 profits generated to date in connection with the
21 10 Skee-Ball Live Lanes, which you allege in
22 Paragraph 130 of the Complaint were delivered to
23 you on October 18, 2017."

24 Do you see that interrogatory?

25 A. Yes, I do. Yeah, it took me a

WIKMAN

1
2 second, but I caught up with you when you went to
3 the end of it. Yes, I see it now.

4 Q. And there's a short answer underneath
5 that that says, "The Skee-Ball Live Lanes have
6 generated \$350,781 in revenue and \$298,163.85 in
7 profits to date." Do you see those numbers?

8 A. I do.

9 Q. And do you have any information about
10 how the profit number would have been arrived
11 upon to answer this interrogatory?

12 MS. CASADONTE-APOSTOLOU: Objection.

13 A. The -- I can't definitively say, but
14 we do -- we do our best to estimate our monthly
15 expense per lane in our models. So it could --
16 it could be based on -- like, the -- the real --
17 the main expense is in relation to maintenance to
18 those lanes.

19 BY MR. WILLIAMS:

20 Q. What -- what do you do to estimate
21 that expense?

22 MS. CASADONTE-APOSTOLOU: Objection.

23 A. We went through an exercise where
24 we -- we -- well, one, we asked the different
25 people that run the Skee-Ball lanes, like, how

WIKMAN

A. Yeah. The cost of the servers that -- that are used to -- for the Skee-Ball Live Lanes to work, that's an expense that's directly attributable to the Skee-Ball Live Lanes.

BY MR. WILLIAMS:

Q. Any others?

A. Not that I can think of off -- at this time.

MR. WILLIAMS: Jim, can you mark A3, the Amended Interrogatory Responses from September 3rd, 2021, please.

MR. BERKLEY: Yes.

(Exhibit 16 marked for identification.)

MS. NGUYEN: For the record, this is Wikman Exhibit Number 16.

MR. WILLIAMS: Can you move down to Number 7 again, Jim, in the report?

BY MR. WILLIAMS:

Q. Just take a quick look at that, please, Mr. Wikman.

A. Okay. The -- the first two paragraphs appear to me to most likely be identical to what you showed me previously.

1 WIKMAN

2 knows he can answer in his personal capacity.

3 A. I think Reid advised me yesterday
4 that that's privileged, and so I'm not -- I don't
5 know --

6 BY MR. WILLIAMS:

7 Q. Well, I'm not asking you about who is
8 paying for it, I'm asking if FCU is paying for
9 it.

10 MS. CASADONTE-APOSTOLOU: If you
11 know. Objection.

12 A. Not -- not fully, but we are heavily
13 paying for it. But -- but, yeah, I don't -- I
14 can't really answer beyond that, I guess. I
15 don't know.

16 MR. WILLIAMS: Okay. Yeah, I'd like
17 to again request production of the agreement
18 under this litigation and move on from that.

19 BY MR. WILLIAMS:

20 Q. But I'd like to ask why would this
21 account, that I take it from your testimony was
22 created for FCU, would this be created in the
23 name of Eric Cooper?

24 A. Eric Cooper --

25 MS. CASADONTE-APOSTOLOU: This is --

1 WIKMAN

2 objection in a deposition.

3 MS. CASADONTE-APOSTOLOU: That's

4 fine, but it --

5 BY MR. WILLIAMS:

6 Q. Can you answer the question, please.

7 A. I don't know the answer to the
8 question. I know the question was asked why is
9 it in Eric Cooper's, and I don't know the answer
10 to that.

11 Q. Okay. And you have not reviewed
12 these particular statements previously; is that
13 correct?

14 MS. CASADONTE-APOSTOLOU: Objection.

15 A. I -- I do not recall reviewing these
16 documents, the UFC ones.

17 MR. WILLIAMS: Okay. Thank you.

18 Can we mark the next one.

19 (Exhibit 20 marked for identification.)

20 MS. NGUYEN: Marking as Exhibit --
21 Wikman Exhibit Number 20 is FCU-5399.

22 THE WITNESS: I can't see the top of
23 this document.

24 MR. WILLIAMS: Yeah, please give the
25 witness control of the document, if we can, and

1 WIKMAN

2 make sure he can see the top of the document.

3 MS. CASADONTE-APOSTOLOU: Can you --

4 Wik, can you move the bar, the Zoom bar at the

5 top?

6 THE WITNESS: I don't -- yeah, I

7 guess I can slide it to the left and the right.

8 So I -- I guess I'll slide it all the way to the

9 left.

10 MR. BERKLEY: You should be able to

11 see it now, I think, right?

12 THE WITNESS: Yeah, the talking box

13 is over it. Let me move that.

14 MR. WILLIAMS: I think you can

15 also -- I think you can also move the image of

16 the video around the screen, if that helps,

17 Mr. Wikman.

18 THE WITNESS: Yeah, I minimized it,

19 but it just ended up right over what Jim was

20 asking if I could see. But, yes, I see

21 October 9th, 2018 through October 31st, 2018.

22 MR. WILLIAMS: Okay. Thank you.

23 And then, Jim, can you scroll to the

24 end to show us where these documents conclude?

25 Okay.

1 WIKMAN

2 Sorry, that was a little quick, Jim.

3 I saw -- I saw an end date of 2020 --

4 MR. BERKLEY: I apologize. Here, I'm

5 going to take us back.

6 BY MR. WILLIAMS:

7 Q. Okay. So, Mr. Wikman, do you see

8 there the ending dates there are July 31, 2021

9 through August 31, 2021?

10 A. Yes, I do.

11 Q. And you reviewed these documents,

12 JPMorgan Chase statements from this time period

13 previously?

14 A. I reviewed some -- some Chase bank

15 statements in preparation, but I do not recall

16 which months I saw -- looked at.

17 Q. Okay. And when you did review those

18 bank statements, what was the purpose of

19 reviewing them for your preparation?

20 MS. CASADONTE-APOSTOLOU: Objection.

21 A. I don't know.

22 BY MR. WILLIAMS:

23 Q. Do you?

24 A. I'm -- I thought it -- I thought that

25 it seemed like an appropriate thing to review,

1 WIKMAN

2 MR. WILLIAMS: Well, thank you for
3 the -- for the offer. I'll continue a few
4 minutes and then we can figure out whether we
5 should talk. But I appreciate the offer.

6 Okay. Jim, can you mark All, please.

7 And in the meantime, Darryl, could
8 you tell me how much time on the record we've had
9 today.

10 THE VIDEOGRAPHER: Total run time is
11 4 hours and 41 minutes.

12 MS. CASADONTE-APOSTOLOU: In addition
13 to the 5:10.

14 MR. WILLIAMS: Yes.

15 MS. NGUYEN: Wikman Exhibit Number 22
16 will be FCU_EXPERT-2.

17 (Exhibit 22 marked for identification.)

18 BY MR. WILLIAMS:

19 Q. So, Mr. Wikman, this is a document
20 that was attached to Ms. Smith's report, as well
21 as -- well, I think it was only produced as
22 attached to her report, actually.

23 Do you recognize this document?

24 A. No, I do not.

25 MR. WILLIAMS: And can you scroll

1 WIKMAN

2 down to where it covers revenue and expenses.

3 Yeah, you're close. You've got revenue there.

4 BY MR. WILLIAMS:

5 Q. Do you see that, Mr. Wikman?

6 MR. WILLIAMS: Sorry, Jim, move back
7 up one page.

8 BY MR. WILLIAMS:

9 Q. You see how it says "Revenue" there
10 at the bottom?

11 A. Yes, I do.

12 Q. And then you see it says "Expenses"
13 and then on the following page it has a list of
14 numbers?

15 A. Yes, I do.

16 Q. Do you know how those numbers would
17 have been calculated?

18 A. No, I do not.

19 Q. And since you told me you don't
20 recognize it, is it your belief this isn't
21 something you provided to Ms. Smith?

22 A. I did not provide this.

23 Q. Did you provide her data from which
24 you believe that these numbers could be
25 calculated accurately?